

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN THE MATTER OF: )  
)  
BOSTON BLACKIES MANAGEMENT, ) CASE NO. 09 B 44643  
INC., et al., )  
)  
Debtor )

**FINAL PRETRIAL ORDER AS TO MOTION OF  
GENERAL ELECTRIC CAPITAL CORPORATION  
TO VALUE SECURED CLAIM OF CIENA AND  
OBJECTION OF CIENA CAPITAL LLC TO SALE**

On May 13, 2010, there was a status conference held in Chicago, Illinois.

**RESPONSE TO OBJECTION**

Lead counsel for proponents of sale will file Response to Objection with cited authority on or before 12:00 noon Central Standard Time on May 17, 2010.

**ADMISSIONS**

All well pleaded facts admitted in the pleadings are admitted into evidence, unless objections are filed to relevance or prejudice at least 1 calendar day prior to trial.

**STIPULATIONS**

To the extent reasonably possible, the parties will stipulate in writing to facts and documents, and any stipulation will be admitted into evidence. Copies of stipulated documents should be appended thereto.

**DISCOVERY**

Parties in interest are to file lists of witnesses mentioned in this Order and exchange copies of all exhibits on or before May 18, 2010, at 5:00 p.m. Objector and Lead Counsel may each request by e-mail production of documents and witnesses for deposition, but depositions will be limited to 60 minutes for all deponents taken by each party.

## **EXHIBITS AND DEPOSITIONS**

At least 2 calendar days prior to the trial date, all parties are to exchange among themselves and also deliver to the Court in chambers copies of all exhibits they intend to introduce in evidence. **Each exhibit must be clearly numbered, tabbed, and contained in a binder.**

Each party shall clearly number each proposed exhibit and deposition transcript sought to be used in the order of its probable presentation at trial. Each document must be given a separate exhibit number. Prepare a list of those numbered exhibits with a very brief identification of each. Copies of those exhibit lists shall be exchanged among the parties and delivered to the Court in chambers with copies of the exhibits listed, and the original exhibit lists shall be filed with the Clerk with proof of service.

If there is any objection to any exhibit so listed and exchanged, each objection must be stated in writing and filed and served 1 calendar day before trial. If no written objection is made to the Court and copy of the objection served on the proponent within 1 calendar day before trial, such exhibits will be received in evidence without any further authentication or hearing as to relevance or any other issue. If objections are filed, only those express objections filed will be considered and all other possible objections are deemed waived.

If deposition transcripts are to be offered, portions offered by each party will be separately color-coded on the face thereof, and each portion objected to will be bracketed on the face thereof by an objector's color code, so that the Court may see the portions offered and objected to by each party merely by examining the transcript. If the whole transcript is to be offered without objection, then no markings will be made. However, in that event, the proponent will also tender an abstract of the deposition.

All original exhibits (or copies marked and used as originals) will be held by the party offering same, and leave is given to withdraw same after they are admitted into evidence. The copies thereof delivered to the Court will be held by the Court until the ruling is given, and then discarded. The Court's copies will not be returned to counsel or the clerk.

**In addition, if the hard copies of a party's exhibits submitted to the Court exceed one single 3-inch ring binder, the party must also submit the exhibits to the Court on a CD-ROM in pdf format, with each exhibit as a separate document, and with bookmarks for major divisions and for any attachments to the exhibit. Two copies of each CD-ROM must be submitted to the Court and one copy to each opponent counsel, and each shall be labeled with the name of the case and the party on whose behalf it is submitted.**

Even if a party's exhibits do not exceed one binder, each party is urged to submit all exhibits on CD-ROM following the foregoing procedure to allow easier display on courtroom equipment at trial.

## **WITNESSES**

At least 2 calendar days prior to the trial date, the parties are to exchange and file with the Clerk of Court lists of the names and all witnesses they intend to present at trial, together with a brief summary of each separate area of testimony said each such witness will present. Copies of those lists will also be delivered to the Court in chambers. All reasonably anticipated objections to testimony and all motions to limit testimony of a witness identified by an opposing party shall be filed within 1 calendar day after receipt of the witness list required by this paragraph.

## **EXPERT AND RULE 701 WITNESSES**

If any parties are to use expert witnesses or lay witnesses to testify under Federal Evidence Rule 701 at trial, those witnesses should be identified on the witness lists provided hereinabove and their written reports and opinions identified on the exhibit lists provided hereinabove. If no such written reports or opinions exist, then 2 calendar days before trial, the party offering such expert(s) or Rule 701 witness(es) shall for each such witness file and serve a statement of the subject matter on which such witness shall testify, the substance of the facts and opinions to which such witness is expected to testify, and a summary of grounds for each opinion.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

One (1) calendar days prior to the trial, each party shall file with the Court and serve on opposing parties proposed detailed Findings of Fact and Conclusions of Law. Conclusions of Law must cite authority and must at the outset state this Court's jurisdiction. A trial brief may be filed with the proposed Findings and Conclusions if desired, but the filing of such brief will not excuse the filing of draft proposed Findings and Conclusions. Any party not filing proposed Conclusions of Law or a brief may be found to have waived legal issues not thereby presented. Any party not filing proposed Findings of Fact may be found to have withdrawn any dispute as to fact findings proposed by the other side.

## **LEAD COUNSEL**

Counsel for General Electric is designated lead counsel for all proponents of sale. Other sale proponents will be bound by his filings unless they file their own compliance with this Order.

## **TRIAL DATE**

Consolidated trial on Motion of General Electric Capital and Objection of Ciena to sale is set for **May 20 and 21, 2010**, beginning at **1:30 p.m. each day** on all issues presented by Objector and Response thereto, including issues under 11 U.S.C. § 506 and 363(f). Trial will be held in courtroom 682, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois. As requested Objector and Lead Counsel are each limited to 3 trial hours. Objector has the burden of going forward on all issues.

**SANCTIONS FOR NON-COMPLIANCE**

Failure to comply with any portion of this Order will result in appropriate sanctions under Fed. R. Civ. P. 16 (Fed. R. Bankr. P. 7016) unless non-compliance is excused for good cause.

ENTER:

Jack B. Schmetterer  
United States Bankruptcy Judge

Dated this 14th day of May 2010.